

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Matthew G. Kellen,

Petitioner-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 09-77-1233

Parcel No. 171/00360-551-000

On July 23, 2010, the above captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Matthew G. Kellen was self-represented and requested a written consideration. The Polk County Board of Review designated Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard as its legal representatives. Both parties submitted evidence in support of their positions. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Matthew G. Kellen protested to the Polk County Board of Review regarding his residentially classified property located at 1301 5th Avenue, SE, Altoona, Iowa. According to the property record card in the certified record, the improvements include single-story home built in 1972 with 988 square feet of total living area, a full basement with 740 square feet of average-quality finish, an 82 square-foot deck, and a 420 square-foot patio. There is a 22 foot by 22 foot detached garage built in 1973. The site is 12,461 square feet.

The 2009 residential assessment is \$143,300, allocated as follows: \$32,300 to the land and \$111,000 to the improvements. Kellen's claim was based on a single ground: that the assessment is not equitable with that of like properties under Iowa Code section 441.37(1)(a). The Board of Review left the 2009 value unchanged.

Kellen then appealed to this Board, asserting the same ground. He seeks relief of \$5300.

Kellen offered four properties as equity comparables to the Board of Review. He provided the tax district/parcel number, address and assessment of these four properties, but did not indicate the market value of these properties to demonstrate his property is inequitably assessed. Nor did he indicate these properties were assessed using different methods than those used to value his property.

The Board of Review considered an appraisers analysis prepared by county appraiser Henderson. This analysis lays Kellen's four properties submitted as equity comparables on a grid and also offers two additional properties considered for comparison by Harrison. While the properties were all adjusted to Kellens property, it is not an equity ratio analysis as it does not establish a ratio of the assessments in relation to the market values of the properties considered comparable.

In his appeal to this Board, Kellen submitted an appraisal completed by Julie Ann Griffith of Best Choice Appraisal, Altoona, Iowa, for mortgage financing purposes with an effective date of May 3, 2009. Griffith offered six properties for comparison: three sales, a pending sale, and two active listings. While the effective date of the appraisal is after the January 1, 2009 assessment date, two of the three sold comparables occurred in 2008 and two of the three pending/active listings included for analysis were on the market prior to or in concurrence with the January 1, 2009 assessment date. Griffith offers an opinion of value of \$138,000 as of May 3, 2009.

The Board of Review submitted an appraisal completed by Michael W. Swaim of Swaim Appraisal Services. The report was completed for ad valorem purposes and has an effective date of January 1, 2009. Swaim offered three properties for comparison, two of which were considered by

Griffith. While slightly different adjustments were made between the two appraisers, Swaim also concludes an opinion of value of \$138,000.

We find both appraisals to be credible and demonstrate the market value of the subject is \$138,000. While neither the appellant nor the appellee presented evidence clearly demonstrating inequity on a ratio basis, both provided independent, coinciding opinions the subject is not assessed at market value.

Based upon the foregoing, Kellen has provided sufficient evidence to prove the assessment is inequitable. Both parties have provided appraisals that show the correct assessment is \$138,000.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).


To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). While the record does not show inequity by traditional methods under Maxwell, both Kellen and the board of Review submitted independent appraisals establishing the market value of the subject property. While Kellen’s appraisal was completed for mortgage purposes, two sales included occurred prior to the January 1, 2009 assessment date. Additionally, these two sales were also considered by the Board of Reviews appraiser in his January 1, 2009, value opinion. Both appraisers, independently of each other arrived at the same opinion of \$138,000 for the subject property. We consider both appraisals to be credible and demonstrating the subject property is inequitably assessed and its correct assessment.

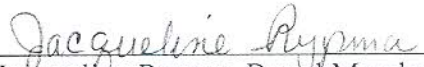
THE APPEAL BOARD ORDERS that Matthew G. Kellen's property assessment be modified. The property located at 1301 SE 5th Avenue, Altoona Iowa, is modified to a total value of \$138,000; representing \$31,100 in land value and \$106,900 to the improvements as of January 1, 2009.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 28 day of September, 2009


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-28</u> , 20 <u>09</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	